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and Trace Technologies, LLC, Debtors

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO DIVISION

In re

GABRIEL TECHNOLOGIES CORP. et al.,

Debtors.

Case No. 13-30340 - DM
(Case no. 13-30341)

Chapter 11

(Jointly Administered)

Date: July 30, 2013
Time: 1:30 p.m.
Court: Courtroom No. 22
235 Pine Street, 22nd Floor
San Francisco, CA

Judge: Honorable Dennis Montali

E.I.N.s 22-3062052; 20-1711149

**DECLARATION OF JONATHAN PIURKO IN SUPPORT OF
DEBTORS' OPPOSITION TO QUALCOMM INCORPORATED'S MOTION FOR
DETERMINATION OF THRESHOLD ISSUES RELATING TO PLAN CONFIRMATION**

I, JONATHAN PIURKO, declare:

1. I am the Managing Director and Chief Legal Officer of Northwater Capital Management, Inc. which manages Northwater Intellectual Property Fund L.P. 3A ("Northwater"), a secured creditor of GABRIEL TECHNOLOGIES CORPORATION ("Gabriel") and TRACE TECHNOLOGIES, LLC ("Trace"), the debtors-in-possession herein (collectively, the "Debtors"). In such capacity, I have personal knowledge of each of the facts stated herein, except as otherwise stated below, and could testify thereto if called upon to do so in a court of law.

2. I make this declaration in support of the *Debtors' Opposition to Qualcomm*

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1 *Incorporated's Motion Of Threshold Issues Relating To Plan Confirmation* (the "Debtors'
2 Opposition"), filed concurrently herewith by the Debtors. All capitalized terms not herein defined
3 are intended to have the meanings ascribed to them in the Debtors' Opposition.

4 3. Northwater, an equity fund based in Toronto, Canada, was the primary secured lender
5 to the Debtors prior to the Petition Date. Northwater is owed in excess of \$15,000,000, including
6 non-principal charges, and asserts an all-encompassing security interest in all of Trace's assets,
7 including general intangibles such as claims against Qualcomm and other defendants.

8 4. The Northwater claim is based on cash advances made by Northwater to or on behalf
9 of the Debtors in the approximate amount of \$3,100,000, beginning in 2011. Attached as
10 **Exhibit "A"** hereto is a spreadsheet reflecting cash transfers made by Northwater as loans to the
11 Debtors. Attached as **Exhibit "B"** hereto are the note and UCC-1 financing statements that
12 document Northwater's secured claim and perfection of its security interest. Northwater's lien
13 encumbering Trace's assets was granted by Trace in Section 7.1 of a Note Purchase Agreement dated
14 as of September 2, 2011 (the "2011 Note Purchase Agreement"), which is attached as hereto **Exhibit**
15 **"C"**.

16 5. Northwater agreed to make its secured loan to the Debtors only after thorough due
17 diligence, including a review of the legal theories and facts underlying the Qualcomm Litigation, full
18 documentation of the loan and security interests, and customary opinion letters from the Debtors'
19 counsel regarding the efficacy of the loan. Prior to making its loan to the Debtors, Northwater had no
20 connection whatsoever to either of the Debtors or their officer or directors.

21 6. I declare under penalty of perjury that the foregoing is true and correct, and that this
22 declaration was executed on July 17, 2013 at Toronto, Ontario, Canada.

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24 /s/ Jonathan Piurko
25 JONATHAN PIURKO
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